

**SUFFOLK COUNTY LEGISLATURE  
SPECIAL MEETING  
NINTH DAY  
MAY 15, 2003**

**Minutes**

**MEETING HELD AT THE WILLIAM H. ROGERS LEGISLATURE BUILDING  
IN THE ROSE Y. CARACAPPA AUDITORIUM  
VETERANS MEMORIAL HIGHWAY, SMITHTOWN, NEW YORK**

**MINUTES TAKEN BY ANA GRANDE, COURT STENOGRAPHER  
MINUTES TRANSCRIBED BY DONNA CATALANO, COURT STENOGRAPHER**

**(THE MEETING CAME TO ORDER AT 1:10 P.M.)**

**P.O. POSTAL:**

Madam Clerk, please call the roll

**(ROLL CALLED BY ALEXANDRA B. SULLIVAN, CHIEF DEPUTY CLERK)**

**LEG. CARACCIOLO:**

Here.

**LEG. GULDI:**

(Not Present).

**LEG. TOWLE:**

Here

**LEG. FISHER:**

Here

**LEG. HALEY:**

Here

**LEG. FOLEY:**

Present

**LEG. LINDSAY:**

Here

**LEG. FIELDS:**

Here

**LEG. ALDEN:**

Here

**LEG. CARPENTER:**

Here

**LEG. CRECCA:**

Here

**LEG. NOWICK:**

Here

**LEG. BISHOP:**

Here

**LEG. BINDER:**

Here

**LEG. TONNA:**

Here

**LEG. COOPER:**

(Not Present)

**D.P.O. CARACAPPA:**

Here

**P.O. POSTAL:**

Here

**MS. SULLIVAN:**

Sixteen

**P.O. POSTAL:**

Please stand for the Salute to the Flag led by Legislator Haley.

**(SALUTATION)**

**MR. GOLDSTEIN:**

Pardon me, Madam Presiding Officer

**P.O. POSTAL:**

There is no public portion during this --

**MR. GOLDSTEIN:**

I understand, but I would like to voice an objection

**P.O. POSTAL:**

Well, would you wait until we read the meeting -- Phil? Phil, would you wait until we read the meeting notice?

**MR. GOLDSTEIN:**

Okay

**P.O. POSTAL:**

Madam Clerk, would you read the meeting notice, please.

**MS. SULLIVAN:**

Notice of Special Meeting dated May 14th to all County Legislators. Please be advised that a special meeting of the Suffolk County Legislature will be held on Thursday, May 15, 2003, at 1:00 PM in the afternoon in the Rose Y. Caracappa Legislative Auditorium located at the William H. Rogers Legislature Building number twenty, 725 Veterans Memorial Highway, Hauppauge, New York, pursuant to the order of Judge Arthur D. Spatt, Federal District Court Judge, dated May 14, 2003, for the following purpose: A one hour public portion to consider a vote on I.R. 1247-03; to

consider a vote on I.R. 1248-03; to consider a vote on I.R. 1249-03; to consider a vote on I.R. 1304-03; to consider a vote on I.R. 1354 -03, signed by Maxine S. Postal, Presiding Officer

**P.O. POSTAL:**

Thank you. We're going to move to our public portion, and I have no cards, but the only speaker who's indicated that he would like to speak is Phil Goldstein. And as in all our public portions, you'll have three minutes, Phil

**MR. GOLDSTEIN:**

Okay.

**LEG. BINDER:**

You have to get a microphone

**MR. GOLDSTEIN:**

I thank you, Madam Chair. I was somewhat disconcerted by the statement that there would be no public portion, which is the reason why I interjected. What I am here to say very simply is in Chinese culture there is something known as the death of a thousand cuts. Why do I raise that? Because to my mind, while we engage in a war abroad to defend democracy, as I have said previously, we are engaged in hypocrisy at home when it comes to democracy. And of course, redistricting is a prime example of that hypocrisy.

I've spoken before before the Legislature to urge you to put aside partisan interests, because our democracy will not be destroyed by alien invaders, nor will it be destroyed by foreign ideologies. Going back to the death of a thousand cuts, it will be the conduct of our own public officials in the manner in which they conduct the affairs of this nation, state and County. We are destroying the confidence of the American people in our own system of government, and redistricting is a reflection of that with the gerrymandering games that goes on.

Put aside your partisan differences. We have a Republican plan that pits two Democrats against one another. We have a Democratic plan that pits two Republicans against one another. Insofar as I can tell, and I don't really know enough of the facts to be sure, because there isn't adequate information made available to the public in the information that is provided. The plans are not sufficient unless we see a breakdown with regard to the minority communities, etcetera and so forth. Earlier when Mr. Tonna had constituted a committee, I was able to audit that committee and gather the facts. And I want to commend Linda Burkhardt who did an extraordinary job in presenting information to the committee, which was also made available to the public. But now we lack that information to adequately evaluate these plans.

But at the previous session that I attended, Vivian Fisher responded to a speech that I made akin to what I am saying right now, and she then issued a revised redistricting plan in which she attempted to pit a Republican against a Democrat. The point very simply is that there ought to be contested elections, not coronations. Incumbency insurance should not be the prime motive, nor should partisan advantage be the prime motive. The public in Suffolk County, the voting public deserves contested elections, we deserve an opportunity to reflect upon the differing views of the different parties and to choose those who we feel best exemplify that. And the incumbents have too much of an advantage. And so to my mind, with what little information is made available to the public, I would contend that Ms. Fisher's latest proposal offers the best opportunity to the Suffolk voters to be able to choose between opposing ideologies. But I would also like to --

**P.O. POSTAL:**

Thank you, Phil. No, I'm sorry, your time is up.

**MR. GOLDSTEIN:**

Okay. Thank you.

**P.O. POSTAL:**

You're welcome.

**LEG. FISHER:**

Thank you, Phil

**P.O. POSTAL:**

Now, despite the fact that the agenda states there's a one hour public portion, if there's no one else who would like to address the Legislature, you'll remember that the Judge's order suspends all our rules, so is there anyone else that would like to address this Legislature? Hearing no one, we're going to go to item two, three, four, five and six on the agenda. There are five different resolutions with different plans for reapportionment of the Suffolk County Legislative districts, and I would ask for if anyone has a motion on any of these --

**LEG. HALEY:**

Motion.

**LEG. CRECCA:**

Madam Chair.

**P.O. POSTAL:**

Legislator Haley.

**LEG. HALEY:**

I'll defer to Mr. Crecca

**P.O. POSTAL:**

Okay.

**LEG. CRECCA:**

Madam Chairman, I would make a motion -- Madam Chairwoman, I would make a motion to approve Introductory Resolution 1304.

**LEG. TONNA:**

Second

**LEG. CRECCA:**

As amended most recently on 5/14/03

**LEG. TONNA:**

Second

**P.O. POSTAL:**

That's item 5 on the agenda. There's a motion to approve by Legislator Crecca, seconded by

Legislator Tonna

**LEG. CARACCILO:**

Roll call

**P.O. POSTAL:**

Roll call

**LEG. FISHER:**

On the motion

**P.O. POSTAL:**

On the motion, Legislator Fisher.

**LEG. FISHER:**

I understand from the number that I've seen regarding this resolution, which we have called plan four sometimes, that the majority-minority district as constituted in this redistricting plan only achieves a 45% level. And it is my understanding that the community of like interest must constitute a majority in that district. If I could ask the sponsor, are my numbers correct?

**LEG. CRECCA:**

Yes. The district, the way it stands now, is 45% of the population has been identified as Hispanic, I believe 19 1/2% is identified as African-American, for a total combined population of -- I've got to add now, 64% roughly. I would just ask Ms. Burkardt, who worked on the maps, all the maps, if those numbers -- if I'm reflecting those numbers accurately?

**MS. BURKHARDT:**

Correct. Correct. I did round them off to, you know, the nearest percent, and it's 45% Hispanic, 20% black for 65%.

**LEG. CRECCA:**

Okay.

**LEG. FISHER:**

It would seem to me that for the length of time that we have been looking at the redistricting plans, the kind of effort that's been made on behalf of the Latino community of Suffolk County that this body could have been more responsive to this growing community and could have drawn a map that represents a majority of the Latin American community in a district where it has been conceded, it has been demonstrated, that there is a majority of Latin Americans.

I have introduced I.R. 1354, which is a plan that designates a majority-minority district with representation of over 50%. It is not partisan plan, it is a plan that places a Republican and a Democrat in the same district, because as we all know, it's difficult to create a majority-minority district and have all eighteen Legislators be -- fall within their own district lines. But our primary responsibility, although incumbency is an important element in reapportionment, our primary responsibility is not to incumbency, our primary responsibility is to the people of Suffolk County, all the people of Suffolk County. And when there have been a group of people advocating and reaching out to this Legislature asking us to recognize -- asking us to recognize their need for representation, it behooves us to determine for ourselves that we can do the right thing. We should not relinquish our charge to the courts. If 1304 is passed today, it will be rejected, and we will relinquish the responsibility that we hold as elected officials to the courts. We will also be relinquishing the good faith that we should be holding out to our newest citizens, the citizens who

have come to us and said, do the right thing, and if you can't, we'll ask the courts to do the right thing. We should not be sending out the message to the Latino community of Suffolk County that we don't care about their right to representation, that we don't care that they have reached out. And very few of us at this horseshoe have bothered to sit and engage the Latin American community in discourse. I think it's shameful.

And I believe that as elected officials, we must set a standard, we must provide a model. We have been through some very ugly times since I've been here in the Legislature. Farmingville is a name that's known throughout the United States as a place where racist activities occurred when two young workers were beaten up because of their race. We must set ourselves up as a model of people who listen to all of the people of Suffolk County. And I don't believe that the members of this body have really listened to all of the people of Suffolk County. I implore you not to pass 1304, because I think that it will further besmirch our name.

**P.O. POSTAL:**

Legislator Caracciolo.

**LEG. CARACCIOLO:**

Thank you, Madam Chair. Until the very end of Legislator Fisher's statement, I really was not going to take issue with what I think are some -- some remarks that are not based, in fact. But I think what has to be pointed out, and clearly let the record reflect that when that unfortunate and terrible incident took place in Farmingville, there was no shortage of Suffolk County Police Department personnel manpower that devoted to apprehending and bringing to justice those that were responsible for that despicable act. The same was true in the Town of Riverhead when a young black man was assaulted at a nightclub in Southampton. There was no effort spared to bring to justice the police officers, off duty police officers, that were responsible for that act. So to conjure up that somehow here in Suffolk County this legislative body, this government, looks the other way and looks down upon minorities is nothing but a total absolute falsehood.

Let's also recognize that for the better part of the last decade, Legislator Presiding Officer Maxine Postal has, in fact, represented a minority district. The question I have, and it's currently being researched so I'd appreciate before we not only move on this particular motion, but any subsequent motions, we ascertain that when the State Legislature last year adopted its reapportionment plan, it carved out in these communities of Central Islip and Brentwood a minority district. And I would be very curious to know if we can find out today what those numbers are, because I don't -- I don't know, and I won't represent something I don't know, but I think it's important. But I believe Legislator Crecca's attempt for fairness, balance and equity in the minority communities and particularly in the Latino community is well represented in this plan. Thank you, Madam Chair.

**P.O. POSTAL:**

Legislator Crecca.

**LEG. CRECCA:**

I'll just briefly respond that I do respect the comments of Legislator Fisher, but I disagree in the sense that there was an emphasis looked on the communities throughout the Town of Islip that you referred to, to look at race only is not proper either under the Voter Rights Act or constitutionally. There are a number of different factors that have to be looked at. One of the primary factors being keeping communities together. This plan that we're debating right now has attempted to do that in every way, shape and form. Wherever possible, we tried to not only keep town lines intact, but communities of like interest, also census to find communities, the idea being

is to try to make contiguous districts and do it in a way that was fair to all the voters of Suffolk County.

And, you know, Mike said it before, but, you know, the minority district that was drawn ten years ago down in Babylon has been represented by a person who has, I don't think there's anyone in that district would disagree, represented that district well and that was --

**LEG. BISHOP:**

Some people voted against her

**LEG. CRECCA:**

Well, maybe some. I'm sure a few people disagree

**LEG. BISHOP:**

Seventy percent agree.

**LEG. CRECCA:**

The bottom line is -- what I'm trying to say is I take offense to anyone who thinks that, you know, Cameron Alden or Angie Carpenter because they may or may not be Hispanic, cannot represent Hispanics or that Maxine Postal --

**LEG. TONNA:**

Or Andrew Crecca. I saw a map with you representing, Andrew Crecca

**LEG. CRECCA:**

Yeah, I know. Legislator Fisher, I commend you. You have made tremendous efforts here in trying to draw maps, and I really do, I commend you on that. But I think that we have met the interests of not just the Latino community, but everyone in Suffolk County. And this has been a very difficult process, but one that I think we can put past us now, get it done for the residents of Suffolk County. It's probably the most important thing now, to move forward from here.

**LEG. FISHER:**

Could I just respond to just one thing that was said? I'll wait on the list

**P.O. POSTAL:**

Okay. Legislator Bishop

**LEG. BISHOP:**

Thank you, Madam Chair. Mr. Crecca, there is a term that you used about census track of community, what is that definition?

**LEG. CRECCA:**

It's census defined community; is that right? Wait a second. I have to go to the authority

**MS. BURKHARDT:**

It's Census Designated Place

**LEG. CRECCA:**

I'm sorry CDP, I thought it was CDC

**LEG. BISHOP:**

CDP. And a Census Designated Place in our English is a hamlet or community, it's what we



understand it to be one entity. So let me ask you, on this revised map, election district -- I'm really challenging my eyes. Perhaps the Clerk can project it on the screen. Can you project Islip on the screen -- election district nine, ten and eleven on the screen simultaneously?

**LEG. FOLEY:**

1304, corrected copy.

**LEG. BISHOP:**

Election district number 175, what --

**LEG. FOLEY:**

I'd like to see it on the screen, Madam Chair

**P.O. POSTAL:**

We need the lights off

**LEG. BISHOP:**

I just want to know in what designated place is that? Is that cut between 119 and 175, is that a community cut?

**LEG. CRECCA:**

No. One nineteen divides what is defined as North Bay Shore and Brentwood. Below it, 175 is self-contained within North Bay Shore is my understanding

**LEG. TONNA:**

It's not a CP

**LEG. BISHOP:**

So District 119 is in whose CDP?

**LEG. CRECCA:**

It's actually split. It's mostly in what's defined under the CDP as Brentwood. The southern portion of 119 is in North Bay Shore. One fifteen, which is right next to it, is defined as being in North Bay Shore. Just so you know, in other words if you continue that line above 115 --

**LEG. BISHOP:**

Right

**LEG. CRECCA:**

If you literally drew a line right through the number 119, then you would be drawing a line dividing Brentwood to the north and North Bay Shore to the south. The State Election Board won't let me create new EDs

**LEG. BISHOP:**

Right, I understand that. So nothing in election -- Legislative District Ten

**LEG. CRECCA:**

You can see the CDP line -- sorry, I didn't mean to interrupt you -- on the map, the red line that goes through 119.

**LEG. BISHOP:**

Right. I see that it splits the district, election districts, there's nothing you can do about that.

Okay. So there's nothing just in District Ten that's in the CDP of Brentwood, that's what I'm trying to --

**LEG. CRECCA:**

There's nothing in district --

**LEG. BISHOP:**

Other than what's contained in an election district

**LEG. CRECCA:**

Correct

**LEG. BISHOP:**

Okay

**LEG. FISHER:**

Is ten purple?

**LEG. CRECCA:**

Ten is the green -- well, on there, it's brown. I'm sorry. Right, ten is brown on there, right?

**MS. BURKHARDT:**

Gray, I believe

**LEG. CRECCA:**

Gray, I'm sorry. I'm sorry. I've got different colors in front of me

**LEG. FISHER:**

It's taupe

**LEG. BISHOP:**

Linda, is that correct? There's nothing -- there's nothing in District Ten that is in the Brentwood CDP?

**MS. BURKHARDT:**

No, that's not true

**(Legislator Guldi entered at 1:30 P.M.)**

**LEG. BISHOP:**

That's not true. Except for what's contained partially in portions of --

**MS. BURKHARDT:**

You can see the portions of 174 and 29

**LEG. CRECCA:**

And 63 also I think. No, no. Sixty-three is not, I'm sorry.

**MS. BURKHARDT:**

Those portions would be considered Brentwood. One ninety, I believe, is a portion of Dix Hills

**LEG. BISHOP:**

One ninety

**LEG. BINDER:**

Pilgrim State

**LEG. CRECCA:**

I don't know if you wanted me to respond to that. There is a small -- just so we're clear, there is a small portion of Brentwood that is in LD 11 still

**LEG. BISHOP:**

But not ten

**LEG. CRECCA:**

But not ten

**LEG. TONNA:**

What's the point?

**LEG. BISHOP:**

No. I just wanted to know if Brentwood is split into two districts or three districts, and the answer?

**LEG. CRECCA:**

Two

**LEG. BISHOP:**

Two, technically three, but really two. I understand that. Okay. So that was my question. So not only does it -- could it be attacked as failing on the standard of keeping the community of like interests together, that would be a Latino voting block, but it also severs a CDP in order to accomplish its goal, which I think makes it doubly attackable, it's a second Achilles heel. So this map may not survive. But I think what -- what does survive after today and what's particularly damaging is that no longer at this Legislature can you -- or with certain Legislators can you shake their hand, look them in the eye, make a deal and know that it means something.

**LEG. ALDEN:**

I agree with you 100%, Dave. And I'll take a look in anyone's eyes

**P.O. POSTAL:**

Okay

**LEG. ALDEN:**

Broken promises

**P.O. POSTAL:**

Both of you --

**LEG. CRECCA:**

Madam Chair

**P.O. POSTAL:**

Both of you are out of order, and we have a list. Legislator Crecca, you still have the floor

**LEG. CRECCA:**

I'll answer any questions, but I have no other comments.

**LEG. CARACCIOLO:**

Will you yield?

**LEG. CRECCA:**

I yield to Legislator Caracciolo briefly

**LEG. CARACCIOLO:**

Thank you.

**LEG. CRECCA:**

I didn't mean it that way. I meant, you know. If you talk for an hour though, can I pull my yield back, if he goes on too long?

**LEG. CARACCIOLO:**

No, I'll be very brief. Ms. Burkhardt, are there any other CDps on this plan or any other plans, including Legislator Fisher's plan that share community, the same community?

**MS. BURKHARDT:**

Yes.

**LEG. CARACCIOLO:**

Okay. So -- may I continue?

**LEG. CRECCA:**

Yes

**LEG. CARACCIOLO:**

Legislator Bishop

**LEG. BISHOP:**

Yes, I was talking to somebody to the right.

**LEG. CARACCIOLO:**

I hope you heard Ms. Burkhardt's response to my question. There are more than -- there are other communities rather that share CDPs. So I'd like to know, as I think Legislator Crecca attempted to find out, what was the essence of your question? Because if there are other CDPs that -- are you saying that there's a special designation for minority communities in redistricting?

**LEG. BISHOP:**

I think Mr. Cobble explained it, I believe it was open session

**LEG. CARACCIOLO:**

Cabble

**LEG. BISHOP:**

Cabble or Cobble? I always say Cobble.

**LEG. CARACCIOLO:**

Are you talking about the Deputy County Attorney?

**LEG. BISHOP:**

Yes

**LEG. CARACCIOLO:**

Okay. You can call him Bob

**LEG. BISHOP:**

Let's call the whole thing off

**P.O. POSTAL:**

We can't even agree on how to pronounce his name, let alone a plan

**LEG. CARACCIOLO:**

I'd like to understand what the essence of your question was

**LEG. BISHOP:**

That when you have a community of like interests, you're to keep it together. When you have a community, a CDP, and you can keep it together, you should keep it together, if you can. You can cut it, if you have to. My point was that you have a community of like interests within a community, within a CDP, and to me the court decisions are clear, that's a circumstance where you keep that community and the community of like interests together, and this map failed to do that. That was my point

**LEG. CARACCIOLO:**

Legislative Counsel? Mr. Sabatino, could you just define for the Legislature what under federal law or other applicable law is the definition for like interest, a community of like interests? This is going to court, so I think we have to make our record very, very absolutely crystal clear

**MR. SABATINO:**

For the most part like interests would be something that's characterized as political cohesiveness. When, in fact, you get into cases that are litigated over that issue, it's basically a battle of experts who come in on both sides to try and demonstrate whether or not there's a particular community with interests that show a voting pattern overtime, that show they are politically cohesive. That's relevant in those situations where there's a challenge and, you know, someone is trying to make the argument that linking together, for example, an African-American community and an Hispanic-American community meets the Voting Rights Act standard. And it really comes down to -- I mean, some of the cases I've seen, they have thousands of pages of testimony. But the general sense is to look at political cohesiveness which is derived from voting patterns

**LEG. CARACCIOLO:**

And given that definition, rather, I'll just be another another or two, Andrew, what you're saying then is that if you look at this CDP, that if historically there has been a voter registration -- not voter --

**LEG. CRECCA:**

Mike, just to answer your question, that specific question, if I can Madam Chairwoman

**P.O. POSTAL:**

Go ahead

**LEG. CRECCA:**

The voting patterns were looked at specifically in great detail on this -- what's being called the minority district. And the voting patterns in both Central Islip and in the areas, what is the bulk of Brentwood, 90% of Brentwood or so, were extremely consistent, and that was looked at, as well as voter registration, but specifically voting patterns in recent elections

**LEG. CARACCILOLO:**

Would that then meet this test of like interests?

**LEG. CRECCA:**

I had it looked at by several attorneys, I've had it looked at by our County Attorney, and again, I don't want to get into legal opinions, but I wouldn't be putting forth a map that I did not think would survive court challenge

**LEG. CARACCILOLO:**

Thank you.

**P.O. POSTAL:**

Legislator --

**LEG. TONNA:**

Call the vote

**P.O. POSTAL:**

We have some other people who would like to speak, and this is such a momentous issue that I really think it's important that everybody have the opportunity to speak. Legislator Foley

**LEG. FOLEY:**

Yes. Madam Chair, certainly others of us would like to speak, but what I would like to do at this time is make a motion to recess until 2:15

**LEG. CARACCILOLO:**

For the purpose of?

**LEG. FOLEY:**

I don't have to. I would like a recess until 2:15

**P.O. POSTAL:**

Is there a second on that motion?

**LEG. FOLEY:**

David.

**LEG. BISHOP:**

I'll second it

**LEG. TONNA:**

No recess

**LEG. CARACCILO:**

I'd like to have a roll call

**P.O. POSTAL:**

Roll call.

**(ROLL CALLED BY ALEXANDRA B. SULLIVAN - CHIEF DEPUTY CLERK)**

**LEG. FOLEY:**

Yes to recess

**LEG. BISHOP:**

Yes

**LEG. CARACCILO:**

No

**LEG. GULDI:**

Yes

**LEG. TOWLE:**

(Not present).

**LEG. FISHER:**

Yes

**LEG. HALEY:**

No

**LEG. LINDSAY:**

Yes

**LEG. FIELDS:**

Yes

**LEG. ALDEN:**

No

**LEG. CARPENTER:**

No

**LEG. CRECCA:**

No

**LEG. NOWICK:**

No

**LEG. BINDER:**

No

**LEG. TONNA:**

No

**LEG. COOPER:**

(Not present).

**D.P.O. CARACAPPA:**

No

**P.O. POSTAL:**

Yes

**LEG. TOWLE:**

No

**MS. SULLIVAN:**

Seven, it fails

**LEG. TONNA:**

Can we call the vote? Let's call the vote that's in front of us

**LEG. FISHER:**

Am I still on the list?

**P.O. POSTAL:**

Yes, you are. I don't know if Legislator Foley is finished.

**LEG. FOLEY:**

Yes.

**P.O. POSTAL:**

I would like to ask -- clearly, Ms. Burkhardt has provided information that the Brentwood School District is not all in the same Legislative District

**Ms. BURKHARDT:**

Correct

**P.O. POSTAL:**

And the other matter I noticed with regard to this reapportionment map is that the size of this district is larger than the size of the other districts. I know that in working for and with the committee, there was a decision made about attempting to keep all of the districts relatively equal in size, and there was some small variation. There was a number that was settled on as the target size of each district and then there was a small variation, smaller or larger than that target size of the district. In the case of the district in 1304, what is the variation from the average size that was decided upon?

**MS. BURKHARDT:**

The target population was 78,854 and I think it was agreed upon that plus or minus five percent would be appropriate for Legislative Districts.



**P.O. POSTAL:**

But that was just something that the committee had decided was appropriate, there's never been any legal decision on that, has there been?

**MS. BURKHARDT:**

I would have to defer to Mr. Sabatino

**LEG. FOLEY:**

That was informal

**P.O. POSTAL:**

Mr. Sabatino, is there any formal limit?

**MR. SABATINO:**

There's no statutory, there's no constitutional percentage. The five percent I think was just something the commission got comfortable with. However, there are cases where depending on circumstances -- I mean, I've seen the deviation be as high as I think 13 or 15%, but it's based on again the totality of circumstances, which the statute and the court have both pointed to, but there's no magical fixed percent. But I can tell you that double digit deviations have been upheld

**P.O. POSTAL:**

What's the deviation?

**MS. BURKHARDT:**

A hundred and seven percent

**LEG. CRECCA:**

That's in the one district, right?

**MS. BURKHARDT:**

That's in district -- in this plan, in 1304, that's number nine

**P.O. POSTAL:**

So you're saying there's a seven percent deviation from the number that was exactly the average size that was targeted?

**MS. BURKHARDT:**

The target number, correct

**P.O. POSTAL:**

Thank you. Legislator Fisher.

**LEG. FISHER:**

Thank you, Madam Chair. I -- unfortunately, I'm feeling that no matter what's said here people have decided how they're going to vote on this, and it doesn't make any difference. However, I do want to clarify misinterpretations of what I had said earlier, one of them being that I somehow blamed this Legislature for the unfortunate nature of crimes that were committed in Farmingville. What I believe I made clear in my statement was that that was a perception of what is going on here in Suffolk County and that we certainly want to model that that's not the kind of attitude

that we have here in Suffolk County. Secondly, I can't remember what it was that you said, Andrew, that I wanted to respond to. It seems so long ago. However, I do ask all of my colleagues, we have not seriously and publicly discussed these resolutions. Andrew

**LEG. CRECCA:**

I'm sorry, I was answering a question

**(Legislator Cooper entered at 1:43 P.M.)**

**LEG. FISHER:**

This is so important that we should not be satisfied with "let's make a deal," right, David? We should really not be satisfied with "let's make a deal." We should be seriously looking at these plans. We should be seriously and publicly and transparently discussing these plans here today. That was the intent of what the Judge's order was. The order was not go back, make your back room deals and go to the horseshoe prepared to make a decision. I'm asking that we have the discourse -- I know you're throwing up your hands, Marty, and you know, it sounds Pollyanna, but it's --

**LEG. HALEY:**

I have to respond.

**LEG. FISHER:**

Good. I'm glad you have to respond. You should respond, because we should be talking about this, okay? And I don't want it to degenerate into an accusation, which we almost had a few minutes ago. I'm just asking that everyone open your mind to what's before you. I dare say more than 50% of this horseshoe has not really looked carefully at these maps. Just look at them as we're talking about it. Just really let yourself make a decision for the public's good. Just leave your mind open and don't make an a priori decision about this without seeing what's before you

**P.O. POSTAL:**

We have a motion and a second. Roll call

**LEG. TONNA:**

This is to approve, right?

**P.O. POSTAL:**

Yes.

**(ROLL CALLED BY ALEXANDRA SULLIVAN - CHIEF DEPUTY CLERK)**

**LEG. CARACCIOLO:**

Yes

**LEG. CRECCA:**

Yes

**LEG. TONNA:**

Yes.

**LEG. GULDI:**

No

**LEG. TOWLE:**

Yes

**LEG. FISHER:**

No

**LEG. HALEY:**

Yes

**LEG. FOLEY:**

No

**LEG. LINDSAY:**

No

**LEG. FIELDS:**

No

**LEG. ALDEN:**

Yes

**LEG. CARPENTER:**

Yes

**LEG. NOWICK:**

Yes

**LEG. BISHOP:**

Abstain

**LEG. BINDER:**

Yes

**LEG. COOPER:**

No

**D.P.O. CARACAPPA:**

Yes

**P.O. POSTAL:**

No

**MS. SULLIVAN:**

Ten

**LEG. FISHER:**

A victory for partisan politics

**P.O. POSTAL:**

1304 has been approved. There's no other business before this Legislature. This meeting is adjourned.

**(\* THE MEETING WAS ADJOURNED AT 1:45 P.M. \*)**